

HPA Program Technical Review Task Force Meeting
9-4pm, Wednesday July 24th, 2002
Lacey Community Center, Lacey WA

Final Meeting Summary

Meeting Attendees and Contact Information

A list of attendees, plus contact information, is at the end of this summary.

Agreements

- The Task Force agreed on ground rules and a schedule of meetings.
- The Task Force agreed that draft meeting summaries would be sent to Task Force members in advance of meetings. The draft summaries will be finalized at the next Task Force meeting, after which they will be posted at the WDFW website.
- The Task Force agreed that the process WDFW is undergoing to develop interim guidelines for stormwater that meet the requirements of ESHB 2866 would be part of the process to address the stormwater issue.

Action Items

- Task Force members will review and discuss with constituents the list of issues identified at the July 24 meeting and be prepared to further narrow the list, to reach agreement on the final list of issues the Task Force will address (in addition to HPA fees and regulatory overlap concerning stormwater).
- At the August 13 Task Force meeting WDFW staff will provide information, if available, concerning the following:
 - Cost of the HPA program
 - The number of applications received, broken out by project type
 - Cost of enforcement/compliance monitoring
 - Clarity on priorities and relationship to workload (number of permits per biologist and/or region) and costs to review projects (bridge vs. bulkhead)
 - Description of database problems.
- Hedia Adelman will provide information about the “cost recovery” bill.
- Ken Stone will provide information about the TPEAC (Transportation Environmental Permit Streamlining Act).

Introductions, Agenda Review, Meeting Purpose, and Ground Rules

Chairman, Russ Cahill welcomed participants and briefly described the background that led to the creation of the Task Force. He identified two issues that the group has been asked to address:

- HPA fee structure and schedule
- Overlapping stormwater regulations

He told the group it would identify the other issues it would address through the Task Force process and that work would begin on issue identification in the afternoon.

Vicki King, facilitator from Triangle Associates, was introduced and reviewed the day's agenda. She explained that her role was to keep the group focused and to make sure everyone would have an opportunity to contribute views/ideas. Meeting participants then introduced themselves and stated their interest in participating. After introductions, the group reviewed and approved by consensus a set of ground rules for the Task Force's work. WDFW's Pat Chapman explained the process for getting travel expenses reimbursed. Participants were asked to check their contact information and provide corrections to Kristin Grewell.

HPA Program Overview

Pat Chapman gave a brief presentation on the HPA program, including its history and how the code has been narrowed significantly over the years. The presentation sparked the following questions and responses:

Question: Is there a requirement to show a need for a project?

Response: No.

Question: If a project doesn't protect fish or cannot be mitigated, is there a discussion of alternatives?

Response: Yes. If WDFW cannot agree to a proposal, it can issue the HPA with conditions to mitigate the impacts or deny the permit. In either case, the proponent can appeal.

Question: Who decides on the "immediacy" of a threat?

Response: Either the relevant county legislative authority, typically a commission, or WDFW determines the "immediacy" of the threat. WDFW works with entities facing emergencies, to provide a timely response.

Question: Does an emergency permit have a time limit or require another permit to affect a permanent fix?

Response: Yes to both.

Question: Is there a time limit?

Response: The HPA will have an end date.

Question: If you are a third party, how would you be notified an HPA had been issued. Can you, as a third party, submit comments to WDFW?

Response: WDFW has no official notification system. WDFW has no official mechanism for accepting comments. WDFW sometimes does receive comments from other state and local agencies, as well as from NMFS and US FWS. SEPA, an environmental review process, is the only link (somewhat tenuous); it requires notice to owners up to 300 ft. from the project.

Question: How are appeals handled?

Response: WDFW hears informal appeals. The Hydraulic Appeals Board or an administrative law judge hears formal appeals. The venue for formal appeals is set in statute.

Question: How do you assess cumulative impacts?

Response: Issuance of a permit is site-specific. It does not look at cumulative impacts. ESHB 2866 limits how far afield you can go in assessing impacts for stormwater. SEPA is not a permit and has no compliance authority.

Comment: Other guidelines also have to be considered – Shorelines, Corps of Engineers, ESA approval – so it is appropriate for the HPA to be site specific. In fact, the overlap of processes is an issue of concern.

Question: What are the costs of the program and how is it funded now? We need this information to talk about fees.

Response: It is funded from the state's General Fund. Costs are estimated at \$4.3 million. This covers all area habitat biologists, project managers and staff at Headquarters.

Question: Do you have any statistics on compliance/monitoring? Has an environmental audit been conducted?

Response: No audit has been conducted. Some compliance data from Enforcement is in today's handouts.

Comment: The legislation that established the HPA in 1949 was a tangible recognition of offsite and cumulative impacts that were occurring.

Comment: We need a clearer picture of the HPA program and we need to understand the workload.

Comment (Russ Cahill): The Task Force's assignment is not to resolve the coordination among agencies; rather, this group could develop recommendations for how the program could work better – give it a “tune up.” The group could look to fees charged by other agencies as possible models.

Following discussion, there was agreement that a clearer definition of the program was needed for the group to be able to have a good discussion concerning fees. There was also agreement that the Task Force would have to narrow its focus to be able to develop a usable product by the end of November.

Issue Identification

Following lunch, the group began the process of identifying issues, beyond fees and stormwater, for its work plan. Participants brainstormed a list of issues and then consolidated similar issues. Once the consolidated list was agreed to, participants had a chance to “vote” by placing their three dots next to the issues they wanted the Task Force to address. The results of the “voting” were to be sent to Task Force members along with the draft meeting summary. It was agreed that the group would revisit the list of issues on August 13, to give members time to consult with constituents, before settling on the final set of issues to address. (Please see Attachment A for the issues and the number of votes each received.)

August 13 Agenda Items

Looking ahead to the August 13 meeting, the group agreed on a narrowed list of informational requests for WDFW staff; several participants also volunteered to make information available. (See Action Items at the beginning of the summary for the list of issues.) It was agreed that the list of issues for further work would be revisited. Finally, The Chair encouraged members to review a set of questions relative to HPA fees in the packets they received upon arrival at the meeting.

The meeting adjourned at 3:50 PM.

Meeting Attendees and Contact Information

Task Force Members and Alternates:

| | | | |
|-----------------------|------------------------|------------------------------------------------------------------------------------|----------------------|
| Chairman, Russ Cahill | F&W Commission Chair | woodardcrk@aol.com | 360-357-3929 |
| Kelly White | F&W Commission | | 509-738-4790 |
| Ron Ozment | F&W Commission | | |
| Kristen Sawin | Assoc. WA Business | kristens@awb.org | 360-343-1600 |
| Greg Christensen | Resources Coalition | gomer3@msn.com | 360-734-9495 |
| Dick Gilmur | Port of Tacoma | dgilmur@portoftacoma.com | 253-383-9464 |
| Eric Johnson – Alt. | WA Public Ports Assoc. | ericj@washingtonports.com | 360-9430760 |
| Ric Abbett | Trout Unlimited | troutunlimited@localaccess.com | 360-264-4829 |
| Lea Mitchell | WA Enviro. Council | wapeer@peer.org | 360-528-2110 |
| Bruce Wishart | People for Puget Sound | bwishart@pugetsound.org | 360-754-9177 |
| Ken Stone | WSDOT | stonek@wsdot.wa.gov | 360-570-6633 |
| Patty Lynch – Alt. | | lynchp@wsdot.wa.gov | 360-705-7448 |
| Nina Carter | Audubon Society | Ncarter.@audubon.org | 360-786-8020 x208 |
| Robyn Meenach | WA Farm Bureau/ | | |
| Lisa Brautigam-Alt. | WA Cattleman's Assoc. | | |

Invited Government Agency Representatives:

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| Deborah Wilhelmi | IAC/SRF Board | debraw@iac.wa.gov | 360-902-3005 |
| Doug Myers | PS Water Quality Action Team | | 360-407-7322 |
| Ron Shultz | Gov's Exec. Policy Office | ronshultz@ofm.wa.gov | 360-902-0676 |
| Bill Moore | WA Ecology | Bmoo461@ecy.wa.gov | 360-407-6444 |
| Hedia Adelsman | Enviro. Hearings Office/ Hydraulic Appeals Bd. | Hade461@ecy.wa.gov | 360-407-6222 |
| Carol Piening | WA DNR | Carol.piening@wadnr.gov | 360-902-1117 |
| Ed Manary | WA Conservation | Eman461@ecy.wa.gov | 360-407-6236 |

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| | Comm. | | |
| Jim Skalski | WA Office of Financial Mgmt. | Jim.skalski@ofm.wa.gov | 360-902-0654 |
| John Hollowed | NW Indian Fish Comm. | jhollowed@nwifc.org | 360-438-1180 |

Observers:

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| Kari Guy | Guy_ka@leg.wa.gov | 360-786-7437 |
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| Ardell Degler | | 360-266-1608 |
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| Gary Wilburn | Wilburn_ga@leg.wa.gov | 360-786-7453 |
| Jeff Olsen | Olsen_je@leg.wa.gov | 360-786-7157 |
| Candice Christensen | Gomer3@msn.com | 360-734-9595 |

Facilitator:

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| Vicki King | vking@triangleassociates.com | 206-583-0655 |
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WDFW Staff:

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